

REPLY BRIEF			Docket No. AFF014USPT02
Serial No. 10/816,712	Filing Date 04/02/2004	Examiner Lindsey, Rodney M	Group Art Unit 3765
Applicant:	Dennis Piper		
Invention:	RETENTION SYSTEM FOR HEADGEAR		

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is filed in reply to the Substitute Examiner's Answer mailed January 5, 2007.

NEWLY ARTICULATED BASIS FOR REJECTIONS

The Response to Applicant's Arguments section in the Substitute Examiner's Answer indicates that the Examiner's rejections are based upon a construction of the claim limitation "*circumferential*" which is much broader than the meaning intended and ascribed by Applicant in the patent application. Specifically, the Examiner states on page 7 of the Answer that " ... *the claims ... do not require that the [circumferential] lines of retention be continuous about a circumference ...* " and "*Note that the mere limitation of "circumferential" is not seen to require that the lines of retention "encircle" or be "around" the head ...* ".

Pending claims are given the broadest reasonable interpretation consistent with the specification. Phillips v. AWH Corp., 415 F3d 1303, 75 U.S.P.Q. 1321 (Fed. Cir. 2005) and MPEP § 2111 [CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION].

The dictionary definition of "*circumferential*" makes it clear that circumferential is an adjective indicating a location at "*the external boundary or surface of a figure or object*". Webster's Ninth New Collegiate Dictionary. The dictionary definition, however, is silent as to whether circumferential describes something which merely touches a given external boundary at a single point on a circumference, extends partially along a given external boundary about a circumference, or extends completely around an external boundary about a circumference. Hence, in accordance with the holding of Phillips the specification of the patent application must be consulted to determine if the Applicant has provided any guidance as to which of these possible interpretations was intended by Applicant.

The application employs "circumferential" to describe the physical position of two lines of retention defined by a headguard relative to a head when the headguard is worn on the head. The application clearly and consistently shows and describes "circumferential lines of retention" as lines extending completely around the head about a circumference. There is absolutely nothing in the application indicating or suggesting that a "circumferential line of retention" includes a line which merely touches the boundary of the head or extends partially around the head about a circumference. Hence, when properly viewed in light of the specification, it is clear that Applicant uses and defines the claim limitation "circumferential line of retention" to mean a line of retention extending completely around the surface of the head about a circumference. The Examiner's proposed broader interpretation of "circumferential" ignores the clear disclosure, teaching and guidance provided by the specification.

In an effort to expedite handling of this appeal and move this application forward to allowance, Applicant admits that at least claim 1 in the present patent application would be anticipated by United States Patent No. 4,279,037 in the event "circumferential" is broadly interpreted as suggested by the Examiner. However, Applicant is not claiming and has never intended to claim such an invention. In the event the Board upholds the Examiner's rejections on the basis that "circumferential" must be given the broader interpretation suggested by the Examiner, Applicant requests advice and guidance as to specific language considered acceptable for delineating the intended scope of protection sought by Applicant.

CONCLUSION

Applicant respectfully submits that all pending claims (claims 1-18 and 20) are in condition for allowance.

Respectfully submitted,

Date 23 Feb 2007

By


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